

**OBET Liability**

**Potential Federal Refund Payback**

	2016				Total
	Public Safety Pool 7815	General Pool 7825	Education Pool 7835	Transportation Pool 7845	
FY 16 Ending OBET Pool Balance	\$ 4,817,645	\$ 13,965,327	\$ 1,927,594	\$ 208,383	\$ 20,918,949
<b>Over/(Under) Allowed Reserve</b>	\$ 4,817,645	\$ 13,965,327	\$ 1,927,594	\$ 208,383	\$ 20,918,949
Estimated Federal Participation Rate %	20%	20%	20%	20%	
<b>Potential Federal Refund Payback</b>	\$ 963,529	\$ 2,793,065	\$ 385,519	\$ 41,677	\$ 4,183,790

**Discussion Talking Points:**

- Trust Fund is viewed by the Federal Cost Allocation Services (CAS) as a "contingency reserve" and unallowable per Federal Uniform Guidance regulations 2CFR 200.433.

**If we included the TERM Pool Activity in OBET Fund**

	2016				Total
	Public Safety Pool 7815	General Pool 7825	Education Pool 7835	Transportation Pool 7845	
FY 16 Ending OBET Pool Balance	\$ 4,817,645	\$ 13,965,327	\$ 1,927,594	\$ 208,383	\$ 20,918,949
FY 16 Ending TERM Pool Balance (OBET Activity)	(437,309)	(1,318,874)	193,208	787,211	(775,764)
FY 16 Reserve Balances	\$ 4,380,336	\$ 12,646,453	\$ 2,120,802	\$ 995,594	\$ 20,143,185
<b>60 Day Allowed Reserve</b>					
FY 16 Expenses =60/360	\$ 746,925 17%	\$ 9,542,349 17%	\$ 349,290 17%	\$ 1,084,192 17%	\$ 11,722,756 17%
Allowed Reserve	\$ 124,488	\$ 1,590,392	\$ 58,215	\$ 180,699	\$ 1,953,793
<b>Over/(Under) 60 day Reserve</b>	\$ 4,255,849	\$ 11,056,062	\$ 2,062,587	\$ 814,895	\$ 18,189,392
Estimated Federal Participation Rate %	20%	20%	20%	20%	
<b>Potential Federal Refund Payback</b>	\$ 851,170	\$ 2,211,212	\$ 412,517	\$ 162,979	\$ 3,637,878

**Discussion Talking Points:**

- Moving the Program I & II sick leave Term Pool activity into the OBET Pool validates the purpose of the trust fund, but does not eliminate the excess reserves. We need the Board's approval to transfer the Program I & II Term Pool activity into the OBET Pool trust fund.
- CAS may only allow a 60 day reserve (by pool).
- Division of Finance may be able to argue that a larger reserve is allowable: (1) a full actuarial valuation exists (but no ARC), and (2) the trust fund is related to post-retirement healthcare costs.
- New combined rates (Term Pool & AL Trust fund) will need to be re-established for FY2017 and established for FY2018 based on CAS rate negotiations.

**If we reverse out the FY2015 and 2016 revenue from OBET and move into OPEB to be included in next Actuarial Valuation**

	2016				Total
	Public Safety Pool 7815	General Pool 7825	Education Pool 7835	Transportation Pool 7845	
FY 14 Ending OBET Pool Balance	\$ 1,972,033	\$ 4,417,530	\$ 1,155,522	\$ 853,524	\$ 8,398,609
FY 16 Ending TERM Pool Balance (OBET Activity)	(437,309)	(1,318,874)	193,208	787,211	(775,764)
FY 16 Reserve Balances	\$ 1,534,724	\$ 3,098,656	\$ 1,348,730	\$ 1,640,735	\$ 7,622,845
<b>60 Day Allowed Reserve</b>					
FY 16 Expenses =60/360	\$ 746,925	\$ 9,542,349	\$ 349,290	\$ 1,084,192	\$ 11,722,756
Allowed Reserve	17%	17%	17%	17%	17%
	\$ 124,488	\$ 1,590,392	\$ 58,215	\$ 180,699	\$ 1,953,793
<b>Over/(Under) 60 day Reserve</b>	\$ 1,410,237	\$ 1,508,265	\$ 1,290,515	\$ 1,460,036	\$ 5,669,052
Estimated Federal Participation Rate %	20%	20%	20%	20%	
<b>Potential Federal Refund Payback</b>	\$ 282,047	\$ 301,653	\$ 258,103	\$ 292,007	\$ 1,133,810

**Discussion Talking Points:**

- We need the Board's approval to transfer the FY2015 and FY2016 revenue from the OBET into the OPEB Trust Fund and included in the next OPEB valuation (as allowable per UCA 200.431(h)(3) and may be approved by CAS). We need the Board's approval to transfer the Program I & II Term Pool activity into the OBET Pool trust fund.
- Division of Finance will developed a formal written policy as required by CAS regarding how the funds in the Trust Fund will be used/withdrawn.

## OBET Resolution – August 2016

**Issue:** The Other Post-Employment Benefit Trust Fund (OBET) is not in compliance with federal regulations:

- 1) The State has not established a formal written policy regarding how the funds in the OBET will be used or when the funds would be withdrawn from the OBET. Without an established policy, the payments to the OBET are a contingency reserve and are unallowable (Uniform Guidance 2 CFR 200.433).

**See Accompanying Document with Options**

**Finance Recommendation:** For FY2016, operate the Program I/II termination pool activity in the OBET. Pay back the federal share of the FY2014 OBET balance to CAS. Transfer the FY2015 and FY2016 OBET balances to the Other Post-Employment Benefit (OPEB) Trust Fund and include those balances in the next OPEB actuarial valuation. This is Option 4 combined with Option 2 in the accompanying document.

### Action Items:

- 1) **Finance** – Break out the Program I/II activity and balances (revenue, expenditures, cash, fund balance) from the other activity in the termination pool. Move the Program I/II balances and activity to the OBET for FY2016.
- 2) **Finance** – Write a formal policy regarding how the funds in the OBET will be used or withdrawn.
- 3) **OBEB Board** – Approve the transfer of the Program I/II activity and balances to the OBET for FY2016.
- 4) **OPEB Board** - Approve the payback of the Federal share of the FY2014 OBET balance to CAS. This will be the balance after Program I/II termination pool activity (deficits) is netted with the FY2014 OBET balance. The minimum amount is approximately \$1 million.
- 5) **OPEB Board** - Approve the transfers of the FY2015 and FY2016 OBET balances back to the OPEB to be picked up in the next OPEB actuarial valuation.
- 6) **OPEB Board** – Approve the OBET written plan/policy.
- 7) **OPEB Board** – Authorize a full OBET actuarial valuation as of 6/30/2017 which includes an Annual Required Contribution – ARC (one is done every two years). Authorize the OPEB actuarial valuation as of 12/31/2016.
- 8) **Finance** - Address the operation of the OBET with CAS and seek their approval.
- 9) **Payroll** – Program payroll so the termination/retirement payouts are from the OBET. Also consider programming the allocation of the rates.

### Risks:

- 1) CAS may only allow a 60 day reserve in the OBET.
- 2) CAS may still require a refund amount of the FY15 and FY2016 OBET balances.
- 3) Breakout of the Program I/II termination pool balances from other termination pool activity is subjective and will take a significant amount of time.
- 4) Must be done for the FY2016 CAFR.
- 5) Could trigger legislation for this area. This risk applies no matter which option(s) is selected.

### Other Post Employment Benefit (OBET) Trust Fund – July 2016

**Issue:** This fund was created administratively and funded with OPEB funds in excess of the ARC. Although CAS is not aware of this fund, the same Federal compliance issues apply (as with the Annual Leave Trust Fund) and should be addressed. Balance in the fund is approximately \$21 million (FY2014 - \$8.4 million, FY2015 - \$7.8 million, FY2016 – approximately \$5 million)

#### Option 1 – Make No Changes

- Will need to refund CAS the Federal share of contributions in the OBET Fund. Minimum payback will be at least 20% plus interest. The estimated minimum refund amount is \$4 million. Paybacks for future years will also be required as long as we continue to deposit money into the OBET.
- Need Board Approval. Need CAS approval.
- CAS will not want us to continue to accumulate excess reserves from the OPEB ARC in this manner.

#### Option 2 – Transfer only the excess reserves (\$5 million) for FY2016 back to OPEB (This Option can be selected in addition to Option 4 or Option 5).

- Will need to refund CAS their Federal share of the FY2014 and FY2015 reserves. Minimum payback will be at least 20% plus interest approximately \$3.2 million.
- Need Board Approval. Need CAS approval.
- CAS will not want us to continue to accumulate excess reserves from the OPEB ARC in this manner.

#### Option 3 – Transfer the excess reserves accumulated since the last OPEB valuation (\$7.8 million) for FY2015 and (\$5 million) for FY2016 back to OPEB (This Option can be selected in addition to Option 4 or Option 5).

- Will need to refund CAS their federal share of the FY2014 reserves. Minimum payback will be at least 20% plus interest approximately \$1.7 million.
- Include these excess FY2015 and FY2016 reserves in the next actuarial valuation scheduled this December.
- Need Board Approval. Need CAS approval.

- Federal Uniform Guidance regulations will allow excess reserves if they are included in the next actuarial valuation. Will probably need CAS approval.

- CAS will not want us to continue to accumulate excess reserves from the OPEB ARC in this manner.

#### Option 4 - Operate the Program I/II Term Pool Out of the OBET

- Will need to breakout/determine the Program I/II of the combined term pool rate for each term pool.
- All FY2016 Program I/II leave term pool activity (revenue and expenditures) will need to be moved to the OBET Fund.
- Any Program I/II term pool deficits/reserves will also need to move to the OBET Fund.
- The Program I/II portion of the term pool rate and the OBET portion of the rate will need to go into the OBET Fund beginning in FY2017.

- Need to develop a formal written policy.
- All actions above will need to be approved by the Board and CAS.
- Will need to determine if we can legally move the Program I/II term pool activity to the OBET without legislation.
- We will want to establish this OBET Fund in statute.
- A full actuarial valuation is already performed (accept an Annual Required Contribution – ARC). We will need to show the balance in excess of a 60 day reserve is needed due to volatility/possible deficits of the fund (we don't know when someone retires or terminates) or based on actuarial projections that the balance is needed.
- A partial/full refund may still be required.
- Unless warranted by the actuarial valuation CAS will likely limit us to accumulate no more than a 60 day reserve.
- CAS will require an approved fringe benefit rate, this may impact the amount CAS allows us to accumulate in reserve (we do not know the full impact as the State has not been required to negotiate a fringe benefit rate in the past with CAS).

**Option 5 - Combine the Annual Leave Trust and OBET and Create One Trust Fund**

- Move all the term pool activity to a new combined trust fund.
- Any term pool deficits/reserves will also need to move to the new trust fund. Balance will be around \$20 million.
- The term pool, Annual Leave Trust Fund, and OBET Trust components of the rates will need to go into the new combined trust fund beginning in FY2017.
- Need to develop a formal written policy.
- All actions above will need to be approved by the Board and CAS.
- Will need to change statute to reflect changes in the Annual Leave Trust Fund.
- Will need to determine if we can legally move the term pool activity to the new trust fund without legislation.
- This will have to be approved by CAS. If not approved by the CAS deadline payback for both funds will be required. Approximately \$4 million.
- A full actuarial valuation will be required. Hopefully the valuation can help to justify a 10% annual leave liability growth balance and a portion of the existing OBET balance. We will need to show the balance is needed due to volatility/possible deficits of the fund (we don't know when someone retires or terminates) or based on actuarial projections that the balance is needed.
- This option likely conflicts with the current Annual Leave Trust legislation.
- If we cannot prove the need for the 10% annual leave liability growth balance or the OBET balance we will be allowed to only maintain a 60 day reserve.